

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

West Hawai'i Office  
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**County of Hawai'i**  
PLANNING DEPARTMENT

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

February 13, 2012

Lopaka Ron Powell  
Ruth Anne Powell  
82-980 Anoi Way  
Capt. Cook, HI 96704

Dear Mr. and Ms. Powell:

**SUBJECT: Ohana Dwelling Permit Application (OHD-11-000142)**

**Applicants: Lopaka Ron Powell  
Ruth Anne Powell**

**Land Owners: Lopaka Ron Powell  
Ruth Anne Powell**

**Proposal: Construct An Ohana Dwelling Unit Above An  
Existing Single Story 2-Car Garage Attached  
To An Existing Single Family Dwelling**

**Tax Map Key: (3) 7-6-005:064 (COR-12-076678)**

The Planning Department received a request from the Department of Water Supply to reconsider and revise its decision regarding your request to **Construct An Ohana Dwelling Unit Above An Existing Single Story 2-Car Garage Attached To An Existing Single Family Dwelling.**

Since the Department of Water Supply has stated that it cannot provide an additional water meter for the proposed additional dwelling, and that there currently is no funding and no schedule for installing the improvements that would enable the Department of Water Supply to provide an additional water meter for you, the Planning Director has no choice but to **deny** your request to construct a proposed ohana dwelling.

Comments received from the Department of Water Supply are as follows:

The Department of Water Supply (DWS) (Letter dated September 28, 2011): "We have reviewed the subject application and have the following comments and conditions.

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is limited to an average daily usage of 400 gallons and suitable for only one (1) single family-dwelling. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's Rules and Regulations. **However, the Department cannot provide an additional meter for the proposed additional dwelling as the subject parcel does not front the Department's existing water main located within Mamalahoa Highway.**

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Ruth Anne Powell  
February 13, 2012

Further, the subject parcel is situated at an elevation where the Department's water system cannot provide adequate pressure.

In order to provide water service for the proposed additional dwelling, extensive water system improvements would be required, which would include, but not limited to, booster pumps, storage, and transmission facilities. Currently funding is not available and no time schedule is set for such improvements by the Department.

Should there be any questions, please contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.

The Planning Department's Rules of Practice and Procedure, Rule 12-4(d)(2) states in part:

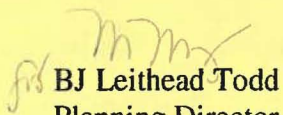
"An ohana dwelling unit that is not served by an approved water system may be permitted to use a water catchment system **in an area which receives an annual rainfall of at least eighty inches** (The University of Hawaii Water Resources Research Center construction guideline of eighty inches of annual rainfall for catchment systems is being used for this purpose). In the event that an annual rainfall requirement is adopted in a future amendment to the Hawaii County Code, then the annual rainfall as reflected in the code amendment shall be used for this purpose. The requirements of the State Department of Health and the Department of Water Supply must also be met." (emphasis added).

Our research indicates that the area in which the subject parcel is located at Holualoa 1<sup>st</sup> and 2<sup>nd</sup>, North Kona receives only **40 to 60 inches** of rainfall annually. This information was obtained from the Water-Resources Investigations Report 95-4212 disseminated by The U.S. Department of the Interior U.S. Geological Survey and prepared in cooperation with the State of Hawaii Commission on Water Resource Management, Department of Land and Natural Resources.

In view of the above, the Planning Director must regretfully **deny** your request to construct the proposed Ohana Dwelling Unit. You may wish to resubmit an application for an Ohana Dwelling when water availability is sufficient and assured, either through a public or private water system.

If you have any questions call Ramsey Young of our West Hawaii Office at 808-323-4770.

Sincerely,

  
BJ Leithead Todd  
Planning Director

RRY:rry

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xc: DOH, Chief Sanitarian

DWS, Manager

HFD, Chief

DPW, Chief Engineer

PLNG Dept.-Hilo

PLNG Dept.-Kona

**Young, Ramsey**

PLANNING DEPARTMENT  
COUNTY OF HAWAII

**From:** McCall, Finn [fmccall@hawaiiidws.org]  
**Sent:** Tuesday, January 31, 2012 9:44 AM  
**To:** ryoung@co.hawaii.hi.us  
**Subject:** OHD 11-000142 (TMK 7-6-005:064)

2012 JAN 31 PM 3: 29

Hi Ramsey,

This is Finn McCall with DWS. Regarding the subject application, we noticed that there may have been an error in the approval letter dated 10/11/11. Item 2 in the letter referenced our comment letter dated 9/20/11 stating that we could not provide a 2nd service for the proposed Ohana dwelling, but on page 3 of the 10/11/11 letter the applicant was instructed to pay the facilities charge and service lateral installation charge for a new service for the new dwelling. Could a revised letter be sent to the applicant clarifying that a 2nd water meter is not available?

Please feel free to call me if you have any questions.

Thanks,  
-Finn

Finn McCall, P.E.  
Civil Engineer  
Department of Water Supply - County of Hawaii  
Water Resources and Planning Branch  
Phone: (808) 961-8070, ext. 255  
Fax: (808) 961-8080  
email: [fmccall@hawaiiidws.org](mailto:fmccall@hawaiiidws.org)  
website: [www.hawaiiidws.org](http://www.hawaiiidws.org)

***The Department of Water Supply is an Equal Opportunity Employer and Provider***



William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

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## County of Hawaii

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

October 11, 2011

Lopaka Ron Powell  
Ruth Anne Powell  
82-980 Anoi Way  
Capt. Cook, HI 96704

Dear Mr. and Ms. Powell:

**SUBJECT: Ohana Dwelling Permit Application (OHD-11-000142)**  
**Applicants: Lopaka Ron Powell**  
**Ruth Anne Powell**  
**Land Owners: Lopaka Ron Powell**  
**Ruth Anne Powell**  
**Proposal: Construct An Ohana Dwelling Unit Above An**  
**Existing Single Story 2-Car Garage Attached**  
**To An Existing Single Family Dwelling**  
**Tax Map Key: (3) 7-6-005:064 (COR-11-073781)**

The subject Application for an Ohana Dwelling Unit Permit was reviewed by the required agencies and their respective comments are as follows:

1. The Department of Public Works (DPW) (Memorandum dated September 20, 2011):  
"We have reviewed the subject application forwarded by your letter dated September 9, 2011 and have no comments."
2. The Department of Water Supply (DWS) (Letter dated September 28, 2011): "We have reviewed the subject application and have the following comments and conditions.

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is limited to an average daily usage of 400 gallons and suitable for only one (1) single family-dwelling. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's Rules and Regulations. However, the Department cannot provide an additional meter for the proposed additional dwelling as the subject parcel does not front the Department's existing water main located within Mamalahoa Highway. Further, the subject parcel is situated at an elevation where the Department's water system cannot provide adequate pressure.

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Ruth Anne Powell  
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In order to provide water service for the proposed additional dwelling, extensive water system improvements would be required, which would include, but not limited to, booster pumps, storage, and transmission facilities. Currently funding is not available and no time schedule is set for such improvements by the Department.

Should there be any questions, please contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.

3. The State of Hawaii Department of Health (DOH) (Memorandum dated September 23, 2011): "The existing wastewater system is adequate to serve the proposed project."
4. The Hawaii County Fire Department (HFD) (Letter dated September 23, 2011): "We have no comments to offer at this time in reference to the above-mentioned Ohana dwelling permit application."

There were no comments received from the surrounding property owners.

We note the following document that accompanied your application. The original and notarized affidavit of **Applicant and Owners** of the subject property dated August 15, 2011 included with the Ohana Dwelling application states:

"We declare that we, Lopaka Ron Powell and Ruth Anne Powell, are the title holders of the property TMK 7-6-005-064

And

"We declare that provision of any restrictions, covenant or other land use restrictions applicable to the lot by way of a deed or lease or other provision do not prohibit the construction or placement of an ohana dwelling unit on the property TMK 7-6-005-064.

In view of the above, by this letter, you are hereby **granted** permission to construct an attached single family Ohana Dwelling Unit subject to the following conditions:

1. The proposed Ohana Dwelling unit shall comply with Ordinance No. 96-47 and Rule 12, the County of Hawaii Planning Department's Rules of Practice and Procedure relating to Ohana Dwelling Units.
2. Non-transferability: The permit for the Ohana Dwelling unit shall be personal to the applicant until construction of the Ohana Dwelling unit has been completed. The permit shall not be transferable or assignable to any other person prior to its completion.
3. Prohibition of Advertising, Sales, Transfers: No person shall advertise or represent to the public that a permit to construct an Ohana Dwelling unit is transferable with the sale of the property on which the permit has been granted.
4. Building Permit: **The applicant is required to secure a building permit from the Department of Public Works, Building Division, for the construction of the Ohana dwelling unit on or before October 25, 2012.**

Please bring or attach a copy of this Permit to assist the reviewing agencies in understanding and expediting the review and processing of the building construction plans and building

permit application for the additional building improvements necessary to establish the Ohana Dwelling on the subject parcel.

- a) The applicant shall consult with the DPW to conform with driveway requirements.
  - b) The applicant shall contact the DWS and pay any required facilities charge and service lateral installation charges to the DWS and shall submit proof of remittance with the submittal of a building permit application.
  - c) The applicant shall correspond with the DOH to determine the number and type of individual wastewater systems allowed.
  - d) The applicant shall consult with the HFD to verify the accessibility of the premises for emergency/fire fighting purposes.
  - e) A onetime 30-day time extension to obtain the building permit may be granted by the Planning Director. A written request for a time extension shall be filed with the Planning Director not less than forty-five (45) days prior to the expiration date of the ohana dwelling unit permit. The Planning Director shall render a decision on the request for a time extension prior to the expiration date of the permit.
  - f) The applicant shall not be able to obtain further extensions beyond the initial 30-day time extension. Further, such failure to conform to the time requirement shall not be cause to petition the Planning Director, Board of Appeals or any other governmental body for relief from the time requirement.
5. Requirements for Height, Site Area (Lot size), Yard (Setback) and Off-Street Parking (Parking spaces):
- a) Height limit: The height limit for the proposed attached ohana dwelling unit shall be twenty-five (25'-0") feet.
  - b) Zoning and Minimum Building Site Area (Lot Size): The subject TMK parcel containing 17,719 s.f. is zoned Single-Family Residential (RS-15) by the County and is situated within the State Land Use Urban district.
  - c) Minimum Yards (Setbacks) and Open Space: The proposed dwelling unit is required to comply with the yards and open space requirements of the Hawaii County Zoning Code. The respective minimum open space, front, rear, and side yard requirements for the proposed detached ohana dwelling unit to be located on the subject TMK property shall be as follows:
    - Front yard –minimum **twenty** (20) feet required;
    - Rear yard –minimum **twenty** (20) feet required;
    - Side yard(s) – minimum **ten** (10) feet required;
    - Open space from other main structure(s) – no minimum required.
  - d) Off-Street Parking: The Ohana Dwelling unit shall be provided with a minimum of two (2) off-street parking spaces that comply with the requirements of Section 25-4-53 of the

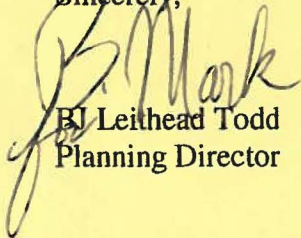
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Zoning Code. All existing and additional parking spaces shall be arranged so as to be individually accessible.

6. This Ohana Dwelling permit is subject to all other applicable rules, regulations and requirements of the Planning Department, Department of Public Works, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.
7. Ohana dwelling units are prohibited on a building site that is the subject of an approved variance from the Subdivision Code (Chapter 23), the Zoning Code Chapter 25), and property where a second dwelling unit is specifically prohibited by a change of zone ordinance.
  - a) No variance from the requirements of Chapter 23 and Chapter 25, Hawaii County Code, as amended, shall be granted to permit the construction or placement of an Ohana Dwelling unit.
  - b) An Ohana Dwelling unit shall not be permitted on a lot which has been the subject of a previously granted variance from any provision of Chapter 23 and Chapter 25, Hawaii County Code, as amended.

If you have any questions please call Ramsey Young of our West Hawaii Office at 323-4770.

Sincerely,



BJ Leithead Todd  
Planning Director

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xc: DOH, Chief Sanitarian  
DWS, Manager  
HFD, Chief  
DPW, Chief Engineer  
PLNG Dept.-Hilo  
PLNG Dept- Kona